

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHENNAI**

REGIONAL BENCH – COURT NO. III

**Excise Appeal No. 40143 of 2021**

(Arising out of Order-in-Appeal No. 89/2020 dated 01.12.2020 passed by the Commissioner of G.S.T. and Central Excise (Appeals-I), 26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai – 600 034)

**M/s. Indian Additives Limited**

Express Highway, Manali,  
Chennai – 600 006

**: Appellant**

**VERSUS**

**The Commissioner of G.S.T. and Central Excise**

Chennai North Commissionerate

26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai – 600 034

**: Respondent**

**APPEARANCE:**

Ms. Sharanya Vijay K., Advocate for the Appellant

Shri M. Ambe, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MRS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)**

**FINAL ORDER NO. 40354 / 2022**

DATE OF HEARING: 04.11.2022

DATE OF DECISION: 07.11.2022

**Order :**

Brief facts of the case are that the appellant is engaged in the manufacture of "Lubricating Oil Additives" and are registered with the Department. They availed credit on computer server, as capital goods, installed at their Mumbai office. 50% of the CENVAT Credit of Rs.19,463/- on duty paid on the computer server was availed in the month of October 2015 and the remaining 50% of the credit of Rs.19,463/- was availed by them in the month of May 2017. The total credit availed on the computer server, as capital goods, was Rs.38,926/-. Further, for the period from 2014-15 and 2017-18 (up to

June), the appellant availed CENVAT Credit of the Service Tax paid on Housekeeping Services amounting to Rs.16,068/-. The said services were received and utilized by the appellant at their office premises in Mumbai. The Department was of the view that the credit availed on capital goods and Housekeeping Services is not eligible.

2. Show Cause Notice No. 50/2019-Audit-I dated 25.07.2019 dated 25.07.2019 was issued proposing to disallow the said ineligible credit and recover the same along with interest, and also proposing to impose penalties. After due process of law, the Original Authority vide Order-in-Original No. 01/2020-2021 dated 26.05.2020 confirmed the demand of Rs.54,994/- (Rs.38,926/- + Rs.16,068/-) being the credit availed by the appellant on capital goods and Housekeeping Services and imposed equal penalty under Rule 15(2) of the CENVAT Credit Rules, 2004 read with Section 11AC of the Central Excise Act, 1944. Against such order, the appellant filed appeal before the Commissioner (Appeals), who vide order impugned herein upheld the same. Hence, this appeal.

3.1.1 On behalf of the appellant, Ms. Sharanya Vijay K., Learned Advocate, appeared and argued the matter. She submitted that the computer server, though installed at their office in Mumbai, is integrally connected to the manufacturing process. The placement of orders, which forms a vital part of their business, is done through these computers; that these servers form a mandatory and vital element for capturing the sale orders in SAP systems and thereby ensure flow of data between the sales/marketing offices in Mumbai and the current office in Chennai. She would submit that once an order is captured, the server directly instructs the operation team to produce material and monitor quality during production stages (work in progress). That therefore, without such data which are fed from their Mumbai server to the Chennai system, the request for manufacturing cannot be streamlined.

3.1.2 She submitted that though the computer servers are installed in Mumbai, they cannot be considered as office equipment which are not eligible for credit under the definition of "capital goods". Alternatively, Learned Counsel for the appellant submitted that with effect from 01.04.2016, the definition of "capital goods" in the CENVAT Credit Rules, 2004 has been amended and the restriction to avail credit on office equipment has been deleted from the said definition; in any case, the appellant would be eligible for the credit which has been availed after 01.04.2016.

3.2 In regard to the credit availed on Housekeeping Services, it is submitted by her that the Department has denied the credit alleging that the services have been availed in their Mumbai office. She contended that the Mumbai office of the appellant procures all the orders from various customers and as such, is an integral part of the business of the appellant. Therefore, the credit availed on Housekeeping Services, which are used for cleaning and maintaining the office in a hygienic manner, ought to have been allowed; that it is not necessary that the input services should be availed in the factory itself.

3.3 She prayed that the appeal may be allowed.

4.1 Shri M. Ambe, Learned Authorized Representative appearing for the respondent, supported the findings in the impugned order. He submitted that the definition of "capital goods" excludes office equipment in the nature of computer installed in the office premises; that these servers which have been installed in the Mumbai office are not eligible for credit.

4.2 He further submitted that the Housekeeping Services have been availed by the appellant in its Mumbai office whereas the factory is situated in Chennai and therefore, the Department has rightly rejected the credit on Housekeeping Services as well as capital goods.

4.3 He prayed that the appeal may be dismissed.

5. Heard both sides.

6.1 The definition of "capital goods" prior to 01.04.2016 reads as under:-

*"Rule 2. ....*

*(a) "capital goods" means :-*

*(A) The following goods, namely: -*

*(i) All goods falling under Chapter 82, Chapter 85, Chapter 90, heading No. 68.02 and sub-heading No.6801.10 of the first Schedule to the Excise Tariff Act;*

*(ii) Pollution control equipment;*

*(iii) Components, spares and accessories of the goods specified at (i) and (ii);*

*(iv) Moulds and dies, jigs and fixtures;*

*(v) Refractories and refractory materials;*

*(vi) Tubes and pipes and fittings thereof; and*

*(vii) Storage tank,*

*(1) Used in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office;"*

6.2 The above definition excludes 'any equipment or appliance used in an office' of the manufacturer and hence, the credit availed on the capital goods, namely, computer server, installed in the Mumbai office of the appellant prior to 01.04.2016 is ineligible.

7.1 However, the amended definition of "capital goods" after 01.04.2016 reads as under:-

*"Rule 2. ...*

*(a) "capital goods" means :-*

*(A) The following goods, namely: -*

(i) *all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, [heading 6805, grinding wheels and the like, and parts thereof falling under [heading 6804 and wagons of sub-heading 860692]] of the First Schedule to the Excise Tariff Act;*

(ii) *pollution control equipment;*

(iii) *components, spares and accessories of the goods specified at (i) and (ii);*

(iv) *moulds and dies, jigs and fixtures;*

(v) *refractories and refractory materials;*

(vi) *tubes and pipes and fittings thereof*

(vii) *storage tank, [and]*

*[(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis [but including dumpers and tippers],]*

*used -*

*(1) in the factory of the manufacturer of the final products; or*

*[(1A) outside the factory of the manufacturer of the final products for generation of electricity [or for pumping of water] for captive use within the factory; or]*

*(2) for providing output service;*

*(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the service provider, when used for -*

*(i) providing an output service of renting of such motor vehicle; or*

*(ii) transportation of inputs and capital goods used for providing an output service; or*

*(iii) providing an output service of courier agency;*

*(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the provider of service, when used for providing output service of -*

- (i) *transportation of passengers; or*
- (ii) *renting of such motor vehicle; or*
- (iii) *imparting motor driving skills;*

*(D) components, spares and accessories of motor vehicles which are capital goods for the assessee;”*

7.2 The definition of “capital goods” after 01.04.2016 does not exclude ‘any equipment or appliance used in an office’. For this reason, I hold that the credit availed by the appellant on the said computer server after 01.04.2016 would be eligible. It has also been stated by the appellant that these form an integral part of their manufacturing process as all the data is collected in the said server.

8. In regard to Housekeeping Services, the credit availed by the appellant has been disallowed alleging that these services are consumed in the Mumbai office. It is not in dispute that the Mumbai office is an integral part of the business of the appellant and is doing the administrative work in respect of the appellant’s factory. For this reason, I hold that the credit availed by the appellant on Housekeeping Services at their Mumbai office is eligible.

9. It is noted that the authorities below have imposed equal penalty on the appellant under Rule 15(2) of the CENVAT Credit Rules, 2004 read with Section 11AC of the Central Excise Act, 1944. However, the issue being an interpretational one and the appellant having been eligible to avail the credit on the said capital goods after 01.04.2016 as well as the credit on Housekeeping Services, I am of the view that the penalty imposed requires to be set aside, which I hereby do.

9. In the result, the impugned order is modified to the extent of:-

- (i) Allowing the credit availed on the capital goods after 01.04.2016;
- (ii) Allowing the credit availed on Housekeeping Services; and
- (iii) Setting aside the penalty imposed on the appellant.

10. The appeal is partly allowed in the above terms, with consequential reliefs, if any, as per law.

(Order pronounced in the open court on **07.11.2022**)

Sd/-  
**(SULEKHA BEEVI C.S.)**  
MEMBER (JUDICIAL)

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